

United States Senate

WASHINGTON, DC 20510

April 4, 2012

Ms. Marilyn Tavenner
Acting Administrator
Center for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Acting Administrator Tavenner:

There are approximately 5,300 ambulatory surgical centers (ASCs) across all 50 states, serving 3.3 million Medicare beneficiaries who require surgical procedures and screenings. Patients choose ASCs to receive services because they are convenient and safe, offer high-quality services with low cost-sharing, and often allow them to receive services from a physician with whom they have an established relationship.

As the Centers for Medicare and Medicaid Services (CMS) continues to work on ways to enable efficient delivery of quality services across providers in the Medicare system, we want to bring to your attention an update factor that may cost the system significant money if left unchecked.

Currently, Medicare uses two different factors to update ASCs and hospital outpatient departments (HOPDs). ASC payments are updated based on the consumer price index, which measures changes in the costs of all consumer goods. HOPD rates are updated using the hospital market basket, which specifically measures changes in the costs of providing health care. ASCs are the only health care facilities whose update is based on CPI-U and not on a specific market-basket, despite the fact they provide identical care.

In 2003, Medicare paid ASCs on average 86 percent of what HOPDs were paid to perform the same procedure. As a result of this update disparity, this year ASCs will be paid 58 percent of the HOPD rate. To be clear, our concerns are focused on the impact of the ASC update factor; they should not be misconstrued as an effort to re-litigate Congressional action that established the respective payment policies. Rather we believe this disparity may negatively impact consumers and the Medicare program.

Specifically, we are concerned that, as CPI-U has historically lagged behind the HOPD update, the growing disparity in payments between ASCs and outpatient hospitals may be resulting in closure of some ASCs and the movement of physicians to hospital-based practice, or acquisition of the ASC by the hospital. When the ASC license is terminated and the facility is operated as a department of the hospital, payments from Medicare are made under the outpatient prospective payment system, rather than the ASC system. The result of which is that Medicare pays 72

percent more than that facility was previously paid for the same set of specific services. The ASC industry has recently pointed out that:

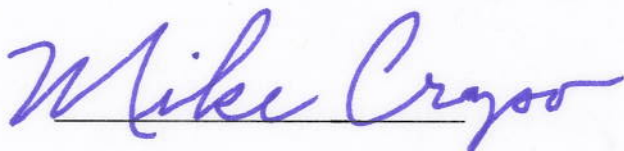
- Over 205 ASCs have voluntarily terminated their participation in Medicare since January 2009.
- Of this group approximately 150 facilities have ceased operations completely or no longer operate as an ASC. Within this group of 150 facilities, one half were purchased by a hospital and most now operate under the hospital license, billing Medicare at a substantially higher rate according to an ASC industry analysis.
- Industry analysis of the ASC closures that became hospital outpatient departments suggests that the motivation was financial, rather than clinical. In these difficult economic times, the cost of these changes is damaging to patients and the Medicare program.¹

The *actual* cost of this phenomenon, however, is something only Medicare can calculate. We request that you report back to us with the true costs of these conversions by:

- Taking the identified list of ASCs that have converted to an HOPD and identifying the physician NPI numbers associated with claims at those facilities.
- Within this group of identified physicians, calculating the 'episode' price for those physician's claims to include the facility and professional fees for the services provided in the ASC prior to closure.
- In the year after the closure, evaluating whether the proportion of the same group of physicians surgical claims billed in the lower cost ASC setting for the same types of services had changed.
- For physicians whose site of service includes a substantially lower proportion of ASC-based services, calculating a new 'episode' price for the surgical procedures previously performed in an ASC.
- Aggregating the results of the analysis for all terminated ASCs to estimate the fiscal impact on the Medicare program of ASC closures.

As Congress and CMS continue to work on improving the Medicare program, we believe that an ASC-to-HOPD trend could undermine those efforts and lead to unintended consequences for the Medicare program and – more importantly – those it serves.

Sincerely,



¹ Enclosed: Industry Data

Boucarh

May of Gardin

Lamar Alexander

Chuck Grassley

John Cornyn

David Vitter

Bill Nelson

Rob

Joe Kinch

Ron Johnson

Tom Cohn

ASC purchased by Hospitals 2009-present

End Date	Former ASC	Hospital that bought ASC	New HOPD name	State	CCN
2011					
2-Aug-11	Tucson Orthopedic Surgery Center	Tucson Medical Center	TMC Orthopedic Outpatient Surgery	AZ	03C0001257
20-Jan-11	Constitution Eye Surgery Center	Hartford Hospital	Outpatient Facility	CT	07C0001017
Feb-11	Twin Lakes Surgery Center	Halifax Health	Outpatient Facility	FL	10C0001426
Mar-11	Northwest Surgery Center, LLC	Indiana Orthopedic Hospital (Ortholndy)	Outpatient Facility	IN	15C0001072
Mar-11	St. Luke's Surgicenter	North Oaks Hospital	North Oaks Surgery Center	LA	19C0001063
15-Sep-11	Physicians Alliance Surgery Center	Saint Francis Healthcare System	Outpatient Facility	MI	26C0001055
4-Nov-11	Fairgrounds Surgical Center	Lehigh Valley Hospital	Outpatient Facility	PA	39C0001029
1-May-11	Mercy Surgery Center	Regional Hospital	Regional Hospital Surgery Center	PA	05C0001643
1-Jan-11	Riverview ASC	Jefferson Hospital	JH Surgical Center at the Navy Yard	PA	05C0001799
19-Sep-11	Plaza Surgery Center	Erlanger Health System	Outpatient Facility	TN	05C0001620
2010					
19-Aug-10	North Valley Endoscopy Center	Enloe Medical Center	Prompt Care Clinic - California Park	CA	03C0001295
Nov-10	Hamden Surgery Center	St. Rafael Hospital	Outpatient Facility	CT	07C0001026
1-Apr-10	Snake River Gastroenterology Labs LLC	St. Luke's Hospital	St. Luke's Clinic: Gastroenterology	ID	13C0001046
15-Jul-10	Central Illinois Surgery Center, LLC	Decatur Memorial Hospital	Central Illinois Surgery Center of DMH	IL	14C0001108
1-Jan-10	Andover Surgery Center, LP	Holy Family Hospital	ANDOVER SURGERY CENTER, LP	MA	22C0001006
1-Jan-10	The Berry Center, LLC	Detroit Medical Center	THE BERRY CENTER, LLC	MI	23C0001062
Dec-10	Vincennes Surgery Center	Good Samaritan Hospital	Outpatient Facility	IN	15C0001127
1-Sep-10	Berkshire Pavilion	Haven Behavioral Hospital of E. Pennsylvania	Outpatient Facility	PA	
31-Mar-10	Wenatchee Valley Clinic	Wenatchee Valley Medical Center	Wenatchee Valley Hospital	WA	50C0001059
2009					
2-Sep-09	BEC Surgery Center	St. Joseph Mercy Health Center	St. Joseph's Mercy Clinic	AR	04C0001021
23-Oct-09	Palm Coast Surgery Center LLC	Florida Hospital Flagler	Florida Hospital Flagler Surgery Center	FL	10C0001517
10-Feb-03	USF Endoscopy & Surgery Center	USF Health	Outpatient Facility	FL	10C0001224
8-Mar-06	Albany Endoscopy Center, Inc.	Phoebe Putney Memorial Hospital	Phoebe Endoscopy Center	GA	11C0001165
1-Dec-09	Orthopedic Surgery Center of Idaho	St. Luke's Hospital	St. Luke's Orthopedic Surgery Center	ID	13C0001040
4-Nov-09	Rexburg Surgery Center	Madison Memorial Hospital	Madison Memorial Surgery Center	ID	13C0001061
1-Aug-09	Rocky Mountain Surgery Center	Portneuf Medical Center	PMC Rocky Mountain Outpatient Surgery	ID	13C0001022
31-Dec-09	Lake Park SurgiCare LLC	St. Mary's Medical Center	Outpatient Surgery at Lake Park	IN	15C0001107
1-Jun-09	Woodland Healthcare Surgicenter	Franciscan St. Anthony Health Michigan City	Woodland Surgicenter	IN	15C0001063
1-May-09	MGFW Surgical Center LLC	Lutheran Medical Group	Outpatient Facility	IN	15C0001138

ASC purchased by Hospitals 2009-present

1-Jan-09	Ambulatory Care Center, LLC	St. Mary's Medical Center	St. Mary's Surgicare at Cross Pointe	IN	15C0001135
1-Jan-09	Ambulatory Care Center, LLC	St. Mary's Medical Center	St. Mary's Surgicare Professional Blvd.	IN	15C0001050
1-Oct-09	Community Surgery Center LLC	Western Plains Medical Complex	Outpatient Facility	IN	15C0001093
19-Sep-09	South Pointe Surgery Center	Olathe Medical Center	Olathe Medical Center ASC	KS	17C0001016
30-Jun-09	Topeka Single-Day Surgery	Stormount-Vail HealthCare	Stormount Single Day Surgery	KS	17C0001012
1-Jun-09	Dodge City ASC, LLC	Western Plains Medical Complex	WPMC Outpatient Surgery	KS	17C0001064
9-Oct-09	Waterford Surgery Center, LLC	St. Joseph Mercy Oakland	Waterford Surgery Center	MI	23C0001084
30-Jun-09	Meritcare Thief River Falls S.E. Surgery	Stanford Health	Stanford Thief River Falls Clinic	MN	24C0001024
1-May-09	South County Outpatient Surgery Center	HealthSouth	HS Surgery Center of South County	MO	26C0001037
30-Apr-09	Advanced Healthcare Surgical Center, LLC	St. Francis Healthcare System	Surgery Center of Poplar Bluff	MO	26C0001068
3-Apr-09	Cardinal Glennon Pediatric Surgery Center	SSM Cardinal Glennon Children's Medical Center	Outpatient Facility	MO	26C0001136
3-Apr-09	Surgery Center at St. Joseph Medical Park	SSM St. Joseph Medical Center	Outpatient Facility	MO	26C0001017
24-Feb-09	Freeman Midwest Surgery	Freeman Health Systems	Freeman Midwest Orthopaedics	MO	26C0001056
31-Jan-09	Scottsbluff Surgery Center	Regional West Medical Center	RW Scottsbluff Surgery Center	NE	28C0001045
24-Aug-09	Surgery Center of Eastern New Mexico	Plains Regional Medical Center	PRM Center Clinic	NM	32C0001117
4-Aug-09	Los Alamos Endoscopy	Los Alamos Medical Center	The Endoscopy Center	NM	32C0001114
16-Sep-09	Mercy Surgery Center, LTD	Springfield Regional Medical Center	SR Outpatient Center	OH	36C0001083
1-Jul-09	University Mednet ASC	University Hospitals mentor Health Center	Outpatient Surgery Center	OH	36C0001132
27-May-09	Crystal Clinic Surgery Center	Summa St. Thomas Hospital	Crystal Clinic Orthopedic Center	OH	36C0001030
6-Apr-09	Surgery Center at Southwoods	Surgical Hospital of Southwoods	Outpatient Facility	OH	36C0001071
20-Mar-07	OHSU Medical Group Dermatology ASC	Oregon Health & Science University	Outpatient Facility	OR	38C0001083
15-Oct-09	Lawrence Country Surgery Center	Edgewood Surgical Hospital	ESH Outpatient Facility	PA	39C0001162
27-Aug-09	USVAC Ambulatory Surgery Center	Fresenius Medical Care	Fresenius Medical Care Philadelphia	PA	39C0001243
1-Jul-09	Endoscopy Center of Delaware County	Main Line Hospital	Main Line Endoscopy Center, South	PA	
3-Jun-09	Wellspan Endoscopy Center	WellSpan Health	Adams Count Women's Health	PA	39C0001144
31-May-09	Carlisle HMA Surgery Center, LLC	Carlisle Hospital	Carlisle Outpatient Surgery	PA	
24-Jul-09	The Bone & Joint Surgery Center	Vanderbilt University Medical Center	Vanderbilt Joint and Surgery Center	TN	44C0001132
18-Mar-09	Maury Regional Surgery Center, LLC	Maury Regional Medical Center	Outpatient Facility	TN	44C0001134
1-Oct-09	Huntsville Surgery Center	Huntsville Memorial Hospital	HMH Outpatient Imaging Center	TX	45C0001244
25-May-10	CSR New Braunfels Surgical Center	CHRISTUS Santa Rosa Health Care	New Braunfels Outpatient	TX	45C0001331
2-Mar-09	Grace Ambulatory Surgery Center LP	Grace Medical Center	GMC Outpatient Surgery Center	TX	45C0001456
14-Oct-09	Redwood Endoscopy Center	University of Utah Health Care	Redwood Health Center	UT	46C0001027